

# **Exhibit 2**



1 pull them and take a look at them --

2 A. Sure.

3 Q. -- would I be able to see  
4 that you did a questionnaire or a survey  
5 like you did in this case?

6 A. Sure. Let me see. So  
7 qualitative health research was --

8 Q. Which one? Let's make sure  
9 I can find the one you're talking about.

10 A. The fifth down was one of my  
11 earlier pieces.

12 Q. From 1997?

13 A. Yeah, that was an early  
14 qualitative.

15 Q. So was that a population  
16 identified like this that was  
17 predetermined and then you drafted a  
18 survey to survey them?

19 A. Uh-huh.

20 Q. That's a yes?

21 A. That was not a survey. That  
22 was an interview study.

23 Q. So that was in-person  
24 interviews?

1 A. Yes.

2 Q. So I'm talking about --

3 A. I might have had --

4 Q. -- surveys?

5 A. -- a questionnaire. I don't  
6 remember. The next one --

7 Q. And, Dr. Steinberg, I  
8 appreciate your help today, but can you  
9 let me finish my questions --

10 A. Sure.

11 Q. -- and I'll let you finish  
12 your answers?

13 A. Uh-huh.

14 Q. Great. So that one was  
15 interview studies in-person. So I'm not  
16 talking about the in-person interviews --

17 A. Uh-huh.

18 Q. -- because I'm sure in your  
19 line of work you've interviewed a lot of  
20 people in person. I'm talking  
21 specifically about the surveys or the  
22 questionnaires.

23 A. The DIS study was  
24 essentially a survey, not in-person,

1 because we used interactive video.

2 Q. And which one is that?

3 A. That's the American Journal  
4 of Psychiatry, I believe. I can't  
5 remember these very well. It was 1998.  
6 But --

7 Q. Okay. So you think that one  
8 was a survey like you -- or a  
9 questionnaire like you sent out in this  
10 case to a defined population of patients?

11 MR. CERYES: Objection to  
12 form and foundation.

13 You can answer.

14 THE WITNESS: I think it was  
15 a video survey, if I recall.

16 BY MS. McENROE:

17 Q. So those would be video  
18 interviews you're saying?

19 A. I -- I don't remember,  
20 honestly.

21 Q. Okay.

22 A. So I better not say.

23 The next one down is also an  
24 interview survey.

1           Q.       Right. So I'm sure you did  
2       a lot of interview surveys, but taking a  
3       look through these, if there are any that  
4       were not interview surveys, that were  
5       more traditional surveys in the way that  
6       you provided today for this case?

7           A.       Well, let's see. I  
8       believe -- I honestly don't remember.  
9       Isn't that terrible? Let's see. All  
10      of -- all of these things involved  
11      interviews and questionnaire development,  
12      whether the questionnaire was  
13      administered in an interview format or  
14      not. It's just pretty much everything,  
15      deaf woman, ah, here's one that was a  
16      survey. This one made JAMA. That's my  
17      best journal. That is page 15, second  
18      down.

19          Q.       Yep. 2003?

20          A.       That was a survey  
21      administered to medical faculty that  
22      related to their experiences in the  
23      academic environment, and JAMA thought it  
24      was good enough, I guess, so that's good.

1 Q. Yep. And were there  
2 interviews in conjunction with those  
3 surveys?

4 A. No, I don't believe there  
5 were. Uh-uh.

6 Q. Okay. Any others?

7 A. I believe some of the  
8 parental decision-making that followed it  
9 on the next page.

10 Q. The next page, so page 16?

11 A. No, following immediately  
12 that JAMA article. The Archives of  
13 Pediatric and Adolescent Medicine --

14 Q. Yeah.

15 A. -- I believe that was a  
16 survey.

17 Q. With interviews?

18 A. But I -- it may have had  
19 interviews. I'm -- I'm really not  
20 remembering.

21 Q. Okay. Any others?

22 A. Honestly, I cannot recall.  
23 There are many studies that look the same  
24 to me now. Some on genetic testing,

1 claims had to be excluded. And so we  
2 trained, oh, maybe 30 interviewers,  
3 something like that, and then I sort of  
4 managed oversight of those interviewers.  
5 Did -- listened in on their tapes, gave  
6 them feedback for future interviews and  
7 basically did sort of quality control on  
8 the interview process, what they were --  
9 how they were facilitating the interview,  
10 tried to keep it to the integrity of the  
11 actual questionnaire or interview, if you  
12 will. So basically administered --  
13 administered questionnaire.

14 Q. So the questionnaire that we  
15 were just discussing in the second case  
16 wasn't sort of like it was disseminated  
17 here by email, it was administered  
18 through an interview process?

19 A. Yes. Uh-huh.

20 Q. Okay. And you mentioned  
21 that in this case with the OB/GYN, that  
22 it went from approximately 13,000  
23 patients to about 9,000 patients because  
24 there were some fraudulent claims; is



1       that correct?

2               A.       Or people didn't follow  
3       through with it. One or the other.

4               Q.       What do you mean by  
5       "fraudulent claims"?

6               A.       Oh, well, when you have  
7       these sorts of class actions, mass torts,  
8       mass tort claims, a number of people find  
9       their way to this information, might live  
10      in Alabama, Texas and claim that they  
11      were patients of this physician.

12              Q.       And what was the third of  
13      the case settlements you were mentioning  
14      before?

15              A.       The third one involved a  
16      rabbi and the rabbi was in charge of --  
17      it's called a mikvah. It's sort of a  
18      ceremonial religious immersion. That  
19      women go into this cleansing ritual once  
20      a month after their period is finished or  
21      before they get married or at other vital  
22      times where they want to be purified.  
23      And the rabbi had set up video equipment.  
24      So that was a -- like the second case I

1 mentioned where the women were unaware  
2 that they were videotaped until later; in  
3 this case the women were also unaware at  
4 the time and the damages occurred when  
5 they found out.

6 Q. And was that a  
7 self-administered questionnaire? Was  
8 that an interview?

9 A. That was a self-administered  
10 questionnaire, yes.

11 Q. Were there interviews in  
12 conjunction with those questionnaires?

13 A. There were not. Uh-uh.

14 Q. And approximately how large  
15 was that patient pop -- I'm sorry,  
16 that --

17 A. It was hundreds.

18 Q. -- victim population?

19 A. Hundreds. Not thousands. I  
20 forget the exact number.

21 Q. Did you design that  
22 questionnaire?

23 A. I did.

24 Q. And did you administer that

1 questionnaire?

2 A. That was a comp --

3 Q. Did you -- were you involved  
4 in sending it out?

5 A. It was a computer.

6 Q. Okay. Were you seeking  
7 information on emotional damages through  
8 that questionnaire?

9 A. I was. Uh-huh.

10 Q. When was that?

11 A. That was over the past year,  
12 maybe 15, 18 months at the most. It was  
13 about a year process. Finished up a few  
14 little straggler cases in the last couple  
15 of months.

16 Q. So for any of these cases  
17 you mentioned or any of the other cases  
18 you recall working on, had you ever  
19 worked with plaintiffs' counsel involved  
20 in this case before?

21 A. They were involved in -- and  
22 I -- they were involved in the second  
23 case. They retained me in the second  
24 case. That's the only case in which they

1           can get a tremendous amount of  
2           information from each one.

3       BY MS. McENROE:

4           Q.       What are the differences?

5                   MR. CERYES:   Same objection.

6                   THE WITNESS:   It probably  
7           varies person to person more than  
8           anything.   With studies in which  
9           aren't really clinical work, in  
10          which I do both, the surveys are  
11          nicer because you can make sure  
12          you don't miss any areas.   If  
13          you're just doing an interview,  
14          you can't remember everything to  
15          ask, but if you use inventories,  
16          anxiety, depression,  
17          post-traumatic stress, you can  
18          cover a lot of ground in a short  
19          amount of time and uncover areas  
20          that you might not otherwise have  
21          remembered to ask about or that  
22          somebody face-to-face will not  
23          say.

24       BY MS. McENROE:

1 Q. You mean using a diagnostic  
2 tool?

3 A. Using an -- using a  
4 questionnaire or a survey --

5 Q. Okay.

6 A. -- as you call it.

7 Q. Okay. But is -- but I'm  
8 trying to figure out if there's a  
9 distinction in your mind between the more  
10 canned, if you will, or standardized  
11 diagnostic tools or questionnaires as  
12 opposed to a survey --

13 A. Surveys.

14 Q. -- like the one designed in  
15 this case?

16 A. You know --

17 MR. CERYES: Objection.

18 Form and foundation.

19 THE WITNESS: You know, I --  
20 I no longer am certain. I would  
21 have always wanted to do an  
22 interview in -- in the past, but  
23 in the recent case I did involving  
24 the rabbi, for example, the

1 lawyers were quite vehemently  
2 opposed to an interview and only  
3 wanted me to do -- develop a  
4 questionnaire and administer it  
5 through the computer.

6 I thought it would be a  
7 shortcoming, but in fact, there  
8 was a tremendous amount of  
9 information that women poured into  
10 their responses. So I really have  
11 come to understand that when  
12 people are motivated to express  
13 themselves, they will use whatever  
14 modality is available to them to  
15 communicate their experiences.

16 BY MS. McENROE:

17 Q. In that rabbi case, did you  
18 view yourself as diagnosing anyone  
19 through those questionnaires?

20 A. We did ask about symptoms of  
21 depression, anxiety and post-traumatic  
22 stress, but of course I would never  
23 diagnose somebody on the basis of a  
24 response to a questionnaire.

1 Q. Is that true in this case as  
2 well, that you would not consider  
3 yourself as diagnosing any of these  
4 individuals?

5 A. It was never my intention to  
6 present psychiatric diagnoses of any  
7 individual woman in this matter.

8 Q. Okay. Individually or as a  
9 group? You haven't diagnosed them as a  
10 whole?

11 A. Correct.

12 Q. Okay.

13 A. I would not --

14 Q. And you're --

15 A. I would not --

16 Q. You're laughing a little,  
17 but can you explain what you mean by  
18 that? Would you be able to diagnose a  
19 group as a whole?

20 A. No, a psychiatric diagnosis  
21 is administered individually, but I would  
22 not fathom a group diagnosis, no.

23 Q. Okay.

24 A. Group psychiatric diagnosis.

1           Q.       We discussed a little bit  
2       earlier some of your experience of  
3       designing and administering surveys and  
4       some of your prior professional  
5       experiences. Can you articulate for us  
6       the principles that govern the sound  
7       survey design?

8                   MR. CERYES:   Objection to  
9       the breadth of the question.

10                  You can answer.

11                 THE WITNESS:   I don't know  
12       that that -- you know, that I can  
13       profess to give you a lecture on  
14       sound survey design. I just can  
15       tell you that I studied it like --  
16       like if you asked me, you know,  
17       the basis for a psychiatric  
18       interview, I suppose because I'm a  
19       forensic psychiatrist I would have  
20       to be able to provide that for  
21       you, but I don't have any degrees  
22       in survey design and I don't know  
23       that I would want to make a feeble  
24       effort at articulating that for



1           you. I -- I only know that I've  
2           studied it and that I've learned  
3           from smart people and someplace  
4           it's in the soup. You know, it's  
5           mixed in the -- it's in the blend  
6           of what I have come to understand  
7           and to have learned from very good  
8           teachers.

9       BY MS. McENROE:

10           Q.       So what is it that you  
11           learned from the smart people about  
12           governing surveys?

13           A.       That question --

14                   MR. CERYES: Same objection.  
15                   You can answer.

16                   THE WITNESS: That questions  
17           need to be written as open-ended  
18           as possible and not directing  
19           people, but that choices do need  
20           to be given for those people who  
21           may not be able to retrieve words  
22           or descriptors.

23       BY MS. McENROE:

24           Q.       Anything else?

1 MR. CERYES: Same objection.

2 THE WITNESS: That you open  
3 gently and you proceed with  
4 respect and caution and  
5 thoughtfulness.

6 BY MS. McENROE:

7 Q. Anything else?

8 A. And in this case --

9 MR. CERYES: Same objection.

10 THE WITNESS: Sorry.

11 And in this case, that I  
12 don't extend beyond my domain.

13 BY MS. McENROE:

14 Q. What do you mean by that?

15 A. If my domain is psychiatry,  
16 then the questions I ask should not be  
17 about obstetrics or gynecology beyond --  
18 beyond common sense.

19 Q. You don't think that your  
20 questions in the questionnaire in this  
21 case had anything to do with obstetrics  
22 or gynecology?

23 A. I said beyond the common  
24 understanding of general practice and

1       demeanor --

2               Q.       Okay.

3               A.       -- of a physician.

4               Q.       Anything else?

5               A.       No, I think that's probably  
6 all I would say for now.

7               Q.       Did you sort -- I'm sorry,  
8 strike that.

9                       Did you cite any sources in  
10 ensuring that you were preparing a sound  
11 survey in this case?

12              A.       I'm sorry, I don't  
13 understand your question. Did I cite?

14              Q.       Did you consult with  
15 literature on surveys or those types of  
16 issues and how to design a survey in  
17 preparing the one that you did for this  
18 case?

19              A.       No, I don't think I did.  
20 Uh-uh.

21              Q.       You worked with others in  
22 doing the project for this case --

23              A.       Uh-huh.

24              Q.       -- is that correct?

1           A.       Correct. Uh-huh.

2           Q.       So I have Lisa Bain and  
3       Stephen Ehrlich; is that correct?

4           A.       Yes.

5           Q.       Anybody else?

6           A.       That's it.

7           Q.       Okay. So Lisa Bain --

8           A.       Uh-huh.

9           Q.       -- in your report you wrote  
10       that she's a science writer and her  
11       hourly rate is \$125 per hour. She worked  
12       25 hours on the development of this  
13       assessment tool and her data analysis.

14                   Does that sound right?

15           A.       Yes. Uh-huh.

16           Q.       What do you mean by her  
17       development -- or I should -- strike  
18       that.

19                   What do you mean by "the  
20       development of this assessment tool"?

21           A.       I considered Lisa Bain to be  
22       a fantastic extender for me. She worked  
23       with me over many years as the program  
24       manager for those other grants involving

1 questionnaires and interviews. So we  
2 work fairly seamlessly together and she's  
3 an excellent writer, so she can edit me,  
4 I can edit her and we can go back and  
5 forth and discuss ways to phrase  
6 questions about dates of birth versus age  
7 versus -- you know, and what -- how we  
8 can capture the information in the best  
9 way.

10 Q. What is her educational  
11 background?

12 A. She has I believe a master's  
13 degree in science writing.

14 Q. Do you know if she has any  
15 degrees in marketing or surveys?

16 A. No, I don't believe she  
17 does.

18 Q. Was she involved in any of  
19 those other cases you mentioned, the  
20 pediatrician, the OB/GYN with the  
21 videotape and -- or the rabbi with the  
22 videotape?

23 A. She was definitely involved  
24 in the OB/GYN. And let me just think.

1 She was definitely involved in the rabbi  
2 case too. I don't think she was involved  
3 in the pediatrician case.

4 Q. And when you say she was  
5 involved, in a similar way to her  
6 involvement in this case?

7 A. Yes. She did more -- she  
8 spent a tremendous amount of time  
9 listening to the interviews that the  
10 trainees, most of them were like  
11 psychologists or psych -- psychology  
12 interns, people who have already finished  
13 some of their psychology training, that  
14 they -- that they were doing -- not live,  
15 she would listen to them after and then  
16 give them feedback or give me feedback  
17 and we'd give feedback together to the  
18 interviewer about how the -- those  
19 interviews were going.

20 Q. Did she help to design any  
21 questions or questionnaires involved in  
22 the OB/GYN or the rabbi case?

23 A. No, I believe for -- I  
24 worked with -- in those I worked with

1     Girija Kaimal, who is -- she might be an  
2     anthropologist. I forget what her --  
3     she's a professor at Drexel and -- so she  
4     helped with the methodology. And I also  
5     worked with Elizabeth Hembree, who's a  
6     researcher at Penn on those  
7     questionnaires.

8             Q.     Why didn't you work with  
9     them in this case?

10            A.     Because I used the same  
11     methodology and versions of the same  
12     questionnaire and I felt very comfortable  
13     with what we had developed before and  
14     this was an adaptation of that.

15            Q.     Did they review the  
16     questionnaire in this case?

17            A.     No. Uh-uh.

18            Q.     Did you discuss this case  
19     with either of them?

20            A.     No.

21            Q.     For Lisa Bain, when you say  
22     that she did data analysis, what do you  
23     mean about that?

24            A.     I mean she and I both

1 reviewed all the computerized data that  
2 you have on the 300 and some -- 305  
3 women, and that was a lot of work, as you  
4 may know. So we both did it and then we  
5 talked about it a number of times and  
6 discussed what trends we were seeing and  
7 what could be said. Really just a -- I  
8 always need somebody to -- to work with  
9 to bounce off the ideas, make sure that I  
10 am perceiving things correctly. And then  
11 we discussed how we would write up the  
12 synthesis or summary of what was  
13 discussed and we shared back and forth in  
14 that process.

15 Q. When you say that you were  
16 reviewing the computerized data, in what  
17 format were you doing that?

18 A. On the laptop.

19 Q. And was that provided to you  
20 in Excel form or how did you get it?

21 A. Same as you. It was in  
22 individual -- you know, you would have to  
23 open individual files to review. And  
24 ultimately we did create spreadsheets and



1 so on and so forth and then fancy pie  
2 charts and so on were derived from the  
3 data.

4 Q. Did you create spreadsheets  
5 on each of the questions?

6 A. No, I don't think we did. I  
7 think we had -- we had spreadsheets on  
8 the summary statements. We developed in  
9 the end some spreadsheets on those and  
10 then I think we asked Stephen particular  
11 questions and to -- we had different  
12 versions and formats of looking at that  
13 to -- in a way that would be visually  
14 understandable to other people and  
15 decided on sort of pie chart  
16 configurations this time.

17 Q. And do you have --

18 MR. CERYES: Just jump in  
19 here for a second. I think we're  
20 getting close to what would  
21 constitute attorney work product  
22 in terms of communications that  
23 Dr. Steinberg had with other  
24 consultants of ours in this case.

1           And so -- and I agree you're  
2           entitled to any facts and data  
3           that Dr. Steinberg considered,  
4           but, you know, I would object and  
5           instruct Dr. Steinberg not to go  
6           beyond that in terms of  
7           discussions and communications  
8           that she has had with Stephen  
9           Ehrlich and Lisa Bain. And move  
10          to strike to the extent that we've  
11          gotten into that already, but with  
12          that objection we can proceed.

13                   MS. McENROE: So I disagree.

14          BY MS. McENROE:

15                  Q.       I mean, Lisa is not an  
16          attorney, I presume?

17                  A.       Uh-uh.

18                  Q.       She's not a --

19                  A.       No.

20                  Q.       Okay. And Stephen Ehrlich  
21          is not an attorney?

22                  A.       No.

23                  Q.       And they were both hired to  
24          help assist you in your work in this

1 case?

2 A. Well, I identified them, but  
3 I believe they were hired by the  
4 attorney.

5 Q. Right. But they did assist  
6 you with your work in this case?

7 A. They did. Uh-huh.

8 Q. Okay.

9 MS. McENROE: And I'm glad  
10 that you, counsel, agree that  
11 we're entitled to the data. So I  
12 would ask that we work out that we  
13 can get all of that data after  
14 this -- after the deposition is  
15 done. We've only gotten the raw  
16 versions of the survey responses  
17 and the empty survey Word  
18 document, but other than that, to  
19 the extent that there's other data  
20 that exists, we would request that  
21 we get that.

22 MR. CERYES: Right. And you  
23 have all of the data that was  
24 compiled on these individuals. To

1           the extent that there were other  
2           drafts in terms of their  
3           presentation of collections of  
4           those data or statistics regarding  
5           those data, our position would be  
6           that that would constitute  
7           attorney work product and draft  
8           versions of the reports, which  
9           would similarly not be  
10          discoverable.

11                   MS. McENROE: Well, let's  
12           talk about it after --

13                   MR. CERYES: Sure.

14                   MS. McENROE: -- the  
15           deposition or we can I'm sure  
16           write each other letters about it,  
17           but we disagree.

18   BY MS. McENROE:

19           Q.       So Stephen Ehrlich, have you  
20           worked with him before?

21           A.       Uh-huh. Yes.

22           Q.       Okay. And in your report  
23           you wrote that he's an information  
24           technology consultant, correct?

1 A. Yes. Uh-huh.

2 Q. So just in plain words  
3 basically what did he do to help in this  
4 case?

5 A. So Stephen set up a website,  
6 a confidential website that would be  
7 secure and created the technology for  
8 allowing women to enter that secure site  
9 with an ID and -- so that we would not  
10 have their names, that they would be  
11 anonymized for us. That they would be an  
12 ID number as opposed to a name. And he  
13 also created the technology so that the  
14 written questionnaire that we had could  
15 be put into a computer form and to design  
16 it so that it would be visually  
17 accessible to women, that they would not  
18 be intimidated by it, that it would flow  
19 and they continue -- complete the  
20 questionnaire, which is not a small feat.  
21 And then Stephen also created a mode for  
22 us to gain access with our own specific  
23 passwords so that we could follow daily,  
24 hourly sometimes, how many women had

1 completed, what they had written, and  
2 then later he helped us to compile the  
3 data in a way that was easier for us to  
4 see the different responses. Their ages,  
5 their -- how long they had known Dr.  
6 Akoda, under what circumstance they had  
7 come to him and so on.

8 Q. Have you seen what the  
9 survey looked like when it was on the  
10 website?

11 A. Yes.

12 Q. Okay. So you've seen what  
13 the user experience was like?

14 A. Yes, uh-huh.

15 Q. Did you have any say or  
16 input into figuring out or deciding how  
17 that would appear?

18 A. Totally.

19 Q. Okay. And so describe to me  
20 when someone would log in using their  
21 user ID what they would see next.

22 A. Let me see if I have it.  
23 They would see an introduction and then  
24 they would see the first question and --

1 and so on. I don't remember how many  
2 questions per screen they had.

3 Q. Well, that's what I was  
4 going to ask. Was it a choose your own  
5 adventure? Right? If you said yes to  
6 one and then it said to skip to the next  
7 question, would it automatically do that  
8 for you?

9 A. There were a couple of --  
10 two or maybe three questions at the most  
11 where we decided if they said no to  
12 something, that it would automatically  
13 move them to the next, but typically  
14 we -- most of the questionnaire was  
15 complete everything.

16 Q. But were they automatically  
17 moved to the next if that was what their  
18 response had prescribed for in those  
19 circumstances or was it a circumstance  
20 that they could have responded even for  
21 the other questions that they were sort  
22 of then not eligible for or that didn't  
23 make sense for them to answer?

24 A. I'm trying to remember the

1 A. Correct.

2 Q. -- say back?

3 A. I think he smirked.

4 Q. Okay. So that was a  
5 nonresponse response?

6 A. Yes.

7 Q. Is he being compensated for  
8 his time in --

9 A. No --

10 Q. -- connection with this  
11 case?

12 A. -- he's not.

13 Q. Who first contacted you in  
14 connection with this litigation?

15 A. I believe it was Mr. Ceryes.

16 Q. Okay. And when was that?

17 A. In September.

18 Q. Of 2019?

19 A. Yes.

20 Q. Would September 4th sound  
21 about right?

22 A. 3rd, 4th, something around  
23 there.

24 Q. In or around that time. And



1 then the report you produced was dated  
2 September 23rd, correct?

3 A. Yes.

4 Q. So in between September 3rd  
5 or 4th and September 23rd, is it correct  
6 that you designed, administered and then  
7 digested the outcome from the  
8 questionnaire in this case?

9 A. Are you going to ask me if  
10 I've slept during that time?

11 Q. But that's true, correct?

12 A. That is true.

13 Q. Okay. And that's also the  
14 time in which you reviewed, if at all,  
15 the materials involved in this case --

16 A. Uh-huh.

17 Q. -- separate from the survey  
18 responses?

19 A. Uh-huh.

20 Q. Is that correct?

21 A. Correct. Uh-huh.

22 Q. Where did you get the  
23 information for the background section in  
24 your report?

1           A.       I had asked Mr. Ceryes to  
2       send me a letter with the facts of the  
3       case. I had the Complaint and I had --  
4       at the time I had two depositions. I  
5       don't even think I had time to review the  
6       second set of those depositions. So I  
7       think it was the first set of depositions  
8       for the two plaintiffs and I had also one  
9       deposition from somebody associated with  
10      ECFMG that I perused.

11           Q.       So it looks to me like your  
12      counsel has indicated to us that you got  
13      deposition transcripts for plaintiffs  
14      Evans, Powell -- Evans and Powell. Were  
15      those the two plaintiffs whose  
16      depositions you reviewed?

17           A.       I brought everything with  
18      me, so I can check. I don't remember --

19           Q.       Great.

20           A.       -- their names.

21           Q.       Yeah, let's take a look.

22           A.       Evans, Powell and Mr. Kelly.

23           Q.       Great. Okay. And what else  
24      do you have in that pile, just so I don't

1       lose track of it?

2               A.       I have your Exhibit 3.

3               Q.       Yeah. So you can put that  
4       aside. But then you have a copy of your  
5       report, it looks like.

6               A.       I have your Exhibit 2.

7               Q.       Yep.

8               A.       I have now a collated  
9       version of the Complaint -- the -- the  
10       statements.

11              Q.       So just to make sure I  
12       understand what that is. So those are  
13       the statements that -- there was a  
14       statement and then colon section on the  
15       questionnaire that people could chose to  
16       write in a statement. So is this just a  
17       document pulling together each of the  
18       sections from each of those?

19              A.       All of the --

20              Q.       If there was one?

21              A.       Yes. All of the decided 300  
22       individual comments would not be suitable  
23       to bring today. And I have the notice of  
24       deposition.

1 Q. Great.

2 A. I should have printed it  
3 out, but I don't have it here.

4 Q. That's okay. What is STAT  
5 News, S-T-A-T News?

6 A. Did I cite that as a source?

7 Q. Yeah, you said Akoda has  
8 claimed he attended medical school in  
9 Nigeria, although STAT News was unable to  
10 verify this claim.

11 A. I don't recall, but when Mr.  
12 Ceryes called me, I probably ran a search  
13 on Google of the name "Akoda" and  
14 probably was something on a website  
15 someplace.

16 Q. So in addition to the  
17 materials considered here, the facts  
18 provided to you from counsel, you also  
19 googled Dr. Akoda?

20 A. Yes.

21 Q. What else did you find about  
22 Dr. Akoda other than the STAT News --

23 A. I don't believe I had much  
24 time to search very much. I just wanted

1 to see kind of what was out there.

2 Q. And what was out there?  
3 What did you see?

4 A. I don't even remember. If I  
5 cited it, that's because I saw it and  
6 scribbled something down and included it  
7 in here, but that...

8 Q. Is STAT News a news source  
9 that you refer to in checking out other  
10 physicians in your usual practice?

11 A. I don't usually check out  
12 other physicians, but if I get a case, I  
13 sometimes will do a quick search.  
14 Usually I spend more time with it. In  
15 this case, I had to get on to the task at  
16 hand. So I'm surprised I even included  
17 it in here. So -- I don't even remember  
18 doing that, but...

19 Q. Okay. It's possible you  
20 weren't the one who wrote that?

21 A. No, it's possible I did, but  
22 I just don't remember.

23 Q. Okay.

24 A. There was so much

1 information in a very short time. It was  
2 a very crazy time.

3 Q. Well, that's what I'm trying  
4 to understand, how you got this  
5 background section together in that short  
6 of time and on the limited sources that  
7 you had?

8 A. I relied heavily on Mr.  
9 Ceryes's letter and the Complaint.

10 Q. Okay.

11 A. I would say the Complaint  
12 probably the most -- most of all.

13 MR. CERYES: Just for the  
14 record, it's Ceryes, like World  
15 Series.

16 THE WITNESS: I'm sorry.

17 MR. CERYES: That's okay.

18 Just in case we're going to use my  
19 name a lot more, I want to get it  
20 right.

21 BY MS. McENROE:

22 Q. Okay. So looking in the  
23 background section on page 2. Towards  
24 the bottom there's a paragraph that

1 starts "with his ECFMG certification in  
2 hand."

3 Do you see that?

4 A. Uh-huh.

5 Q. Towards the end there's a  
6 sentence that starts "later that year."  
7 It's about three lines up from the bottom  
8 of that paragraph.

9 Do you see where I am?

10 A. Yes.

11 Q. It says, "Later that year,  
12 using the name Charles John Nosa Akoda, a  
13 falsified Social Security number, a fake  
14 permanent residence card, and a fake  
15 Nigerian passport, he applied for and  
16 received a Maryland medical license."

17 Do you see that?

18 A. Yes.

19 Q. Do you know what name was on  
20 Dr. Akoda's ECFMG certificate?

21 A. No.

22 Q. Are you aware of whether the  
23 plaintiffs in this case have filed any  
24 other lawsuits stemming out of

1 certain way when they learned about  
2 Dr. Akoda's history?

3 A. Yes, each response was  
4 different. Each and every response was  
5 different.

6 Q. What do you understand the  
7 purpose of your report to be in this  
8 lawsuit?

9 A. My report was simply to give  
10 information to the plaintiffs' attorneys  
11 about what the women reported.

12 Q. Okay. Were you trying to  
13 give a set of data from which any other  
14 conclusions could be drawn, to  
15 extrapolate to another population of  
16 patients, for example?

17 A. I don't think I understand  
18 the question.

19 Q. So what I mean by that is,  
20 so of the population that was given the  
21 survey, about half responded, correct?

22 A. Uh-huh. Yes. Uh-huh.

23 Q. Was it your intention to use  
24 the outcome of the results from the half



1 that responded to be statistically  
2 significant for the half that did not  
3 respond or for those who may have been  
4 treated or examined by Dr. Akoda, but did  
5 not receive the survey?

6 MR. CERYES: Objection.

7 Form and foundation.

8 You can answer.

9 THE WITNESS: Yes, I think  
10 that that response rate would  
11 suggest that there is  
12 reasonable -- it is reasonable to  
13 assume that of the women that did  
14 not respond, some of those women  
15 would have also had an experience  
16 similar to these women.

17 BY MS. McENROE:

18 Q. Do you think that there's  
19 anything at all meaningful to the fact  
20 that half of the women didn't choose to  
21 respond?

22 A. No, we had a very short  
23 turnaround time. Extremely short  
24 turnaround time.

1 Q. And so you think it's just a  
2 matter of convenience. It's not a matter  
3 of that they may have just chosen not to  
4 respond?

5 A. Oh, well, that was certainly  
6 a good part of it. We had a remarkable  
7 response rate given the women were not  
8 even given a week to respond.

9 Q. On what basis do you say  
10 that you got a remarkable response rate?

11 A. Because people are busy and  
12 this was an unexpected intrusion into  
13 their lives and their daily schedules.

14 Q. Do you have a sense for how  
15 quickly or frequently plaintiffs in  
16 lawsuits tend to respond to requests from  
17 their counsel?

18 A. I know in other cases that  
19 I've done that a week would not have been  
20 adequate time.

21 Q. Have you gotten responses  
22 since September 23rd?

23 A. I don't know.

24 Q. Have you asked?

1           A.       No, we decided to keep it  
2       open, but I did not check.

3           Q.       Do you know if anyone else  
4       checked?

5           A.       I don't know.

6           Q.       So was it your intention to  
7       use the outcome of this questionnaire or  
8       this survey to help diagnose any  
9       individual plaintiff?

10          A.       No.

11          Q.       Is it your intention for the  
12       outcome of this questionnaire or survey  
13       to help diagnose the plaintiff class as a  
14       whole?

15          A.       Not to present psychiatric  
16       diagnoses, no.

17          Q.       Okay. At one point in your  
18       report you say, "forensic psychiatric  
19       consultation was requested." What do you  
20       mean by "forensic psychiatric  
21       consultation" in that -- in that --

22          A.       Sure.

23          Q.       -- usage?

24          A.       Well, it's a consultation

1     because they have asked my -- for my  
2     input in the matter. It's psychiatric  
3     because it's addressing emotional  
4     damages, and as a psychiatrist I have  
5     some experience with listening to people  
6     and understanding what their internal  
7     experience of an action might have been,  
8     and it's forensic because it pertains to  
9     the court and matters related to  
10    questions that can appear in court.

11           Q.     I see. Okay. At one point,  
12    you call your responses -- strike that.

13                   At one point you call your  
14    analysis provisional. Have you done any  
15    non-provisional analysis since then?

16           A.     No.

17           Q.     Do you intend to?

18           A.     Only if asked.

19           Q.     Have you written any other  
20    expert report in this case other than --  
21    and I'm not talking about drafts of, but  
22    any other reports other than what's been  
23    marked as Exhibit 3?

24           A.     No.

1 Aggrieved is a funny word. It's more  
2 like a complaint as opposed to damage.

3 Q. So you think that through  
4 your questionnaire you've proven to  
5 yourself at least that there were  
6 specific damages to particular patients  
7 in this case?

8 A. I do believe that, yes.

9 Q. Having not spoken to any of  
10 them?

11 A. I do believe that, yes.

12 Q. What do you believe your  
13 opinions to be through this expert  
14 report?

15 MR. CERYES: Objection.

16 Breadth of the question.

17 You can answer.

18 THE WITNESS: My opinion is  
19 that it's not good for women to  
20 find out that their doctor may not  
21 have gone to medical school or  
22 have, in fact, been a doctor as  
23 they perceive credentialing to  
24 imply.

1                   And in this particular case,  
2                   it was additional affirmation for  
3                   the women that the behaviors he  
4                   exhibited in the office with them,  
5                   in the hospital with them were  
6                   abusive, not just atypical.

7       BY MS. McENROE:

8               Q.       What do you mean by that  
9       second statement?

10              A.       That some of the comments he  
11       made, some of the ways he put his hands  
12       on them and in them were wrong and not  
13       just -- not just a cultural difference or  
14       a moment in time, but that they were --  
15       they were related to something bigger.

16              Q.       So that's an opinion you're  
17       offering in this case?

18              A.       Yes. Uh-huh.

19              Q.       Having not actually spoken  
20       to any of the individual plaintiffs?

21              A.       Correct.

22              Q.       Having not examined their  
23       medical records?

24              A.       Correct.

1           Q.     Having not spoken to  
2     Dr. Akoda?

3           A.     Correct.

4           Q.     Having not observed  
5     Dr. Akoda in practice?

6           A.     Yes, that's correct.

7           Q.     Okay. And so you said the  
8     opinion you're offering in this case --  
9     one of the opinions you're offering in  
10    this case is that it's not good for women  
11    to find out that their doctor did not go  
12    to medical school or that he was not  
13    really a doctor. If it turns out that  
14    Dr. Akoda really was a doctor --

15          A.     Uh-huh.

16          Q.     -- but that he had committed  
17    Social Security fraud --

18          A.     Uh-huh.

19          Q.     -- but that the plaintiffs  
20    were led to believe that he was not  
21    really a doctor --

22          A.     Uh-huh.

23          Q.     -- wouldn't that lie to them  
24    about him not really having been a doctor

1 be what actually caused them the harm?

2 MR. CERYES: Objection.

3 Form and foundation.

4 THE WITNESS: Well, I would  
5 have to say the question was a  
6 little bit convoluted for me, so  
7 if you ask it in a simpler way for  
8 my brain, that I would probably be  
9 happy to answer.

10 BY MS. McENROE:

11 Q. Sure. So you had said that  
12 one of your opinions is that it's not  
13 good for women to find out that their  
14 doctor basically was not a doctor.

15 A. Uh-huh. Uh-huh.

16 Q. Is that correct?

17 A. Yes, that's correct.

18 Q. If Dr. Akoda really was a  
19 doctor --

20 A. Uh-huh.

21 Q. Correct? I'm making sure  
22 you understand what I'm saying.

23 A. I'm following you.

24 Q. Okay. If it turns out that



1 substance abuse or Internet  
2 addiction or other things. I will  
3 pull a questionnaire relating to  
4 that. Sometimes I'll use a  
5 questionnaire about autism  
6 spectrum symptoms. So -- same for  
7 OCD. So I have a wide variety of  
8 questionnaires in my office that  
9 after I am finished interviewing  
10 or sometimes in the midst of it, I  
11 will give them a questionnaire. I  
12 do not administer psychological  
13 testing. That is not my domain.  
14 I'm not a psychologist. I haven't  
15 been trained to do that. So I use  
16 forms that have been developed,  
17 validated, widely accepted for the  
18 most part, and I find them to be  
19 helpful and even -- even the ones  
20 that -- I have also written out  
21 some -- some questions that I use  
22 routinely. I guess you would call  
23 them a questionnaire. They're  
24 projective questions that I do

1           administer routinely that is not  
2           self-administered. I will usually  
3           ask the questions.

4       BY MS. McENROE:

5           Q.     In an interview format?

6           A.     Uh-huh.

7           Q.     That's a yes?

8           A.     That's -- sorry. That's a  
9           yes.

10          Q.     You mentioned that you use  
11          some questionnaires or surveys that have  
12          been validated or widely accepted. What  
13          do you mean by that?

14          A.     They are typically  
15          questionnaires that are not new. They  
16          are published in peer reviewed journals  
17          and sort of the standard forms that can  
18          augment my clinical interview.

19          Q.     Have you ever published a  
20          questionnaire or a survey in a peer  
21          reviewed publication?

22          A.     You know, I -- I might have  
23          thought no, but I recently received some  
24          requests for questionnaires I had

1 developed and I had to notify the  
2 individual that I no longer have access  
3 to them myself. They related to  
4 decision-making and somebody from South  
5 America wrote to me about an  
6 autism-related questionnaire with blind  
7 individuals.

8 Q. Right. But -- so my --

9 A. So I guess I did develop  
10 some questionnaires and they were  
11 published in peer reviewed journals, yes.

12 Q. But the questionnaires  
13 themselves were published?

14 A. Yes.

15 Q. Not just the --

16 A. Well, you know, it's funny.  
17 The questionnaires were not included,  
18 they never are in -- well, they rarely  
19 are because very often people want to  
20 sell their questionnaires.

21 Q. So what I'm trying to  
22 understand is when you said that you used  
23 validated and widely accepted  
24 questionnaires, what that means. And you

1       said that they're in published --

2               A.       Uh-huh.

3               Q.       -- they're often older,  
4       they've been used a lot --

5               A.       Uh-huh, uh-huh.

6               Q.       And they're in publications?

7               A.       Right.

8               Q.       So presumably you would have  
9       access to those questionnaires if you're  
10      using them?

11              A.       Yes, you buy them.

12              Q.       You buy them. I see.

13              A.       You buy them.

14              Q.       So you buy them from the  
15      authors or you buy them from the  
16      publication?

17              A.       You buy them from a company  
18      that publishes them.

19              Q.       Okay. Are any of your  
20      questionnaires or surveys that you've  
21      prepared for sale?

22              A.       No. Uh-uh.

23              Q.       Is the questionnaire or  
24      survey you used in this case validated?

1 A. No.

2 Q. Is it widely accepted?

3 A. It's individually designed  
4 for this project.

5 Q. Did you do any pretesting?

6 A. No. Pretesting in this  
7 brief sense, that both Lisa and I ran  
8 through the questionnaire as a pretest to  
9 see how long it would take to complete.

10 Q. So you -- you and Lisa ran  
11 through the questionnaire for time?

12 A. Uh-huh. Yes.

13 Q. Length?

14 A. Uh-huh.

15 Q. Okay. Did you do any other  
16 pretesting on the content or the tone of  
17 the questions or the order of the  
18 questions, anything like that?

19 A. No.

20 Q. I think we established  
21 earlier, but you've never met Dr. Akoda,  
22 correct?

23 A. Correct.

24 Q. And you've never spoken with

1 him?

2 A. Correct.

3 Q. You've never treated him?

4 A. Correct.

5 Q. And you've never diagnosed  
6 him with anything?

7 A. Correct.

8 Q. And you've never been  
9 treated by him?

10 A. Correct.

11 Q. And did you consult with an  
12 OB/GYN in any way in preparing this  
13 questionnaire and this survey?

14 A. No.

15 Q. Do you routinely in your  
16 professional experiences work with  
17 OB/GYNs --

18 A. No.

19 Q. -- for any purpose?

20 Okay. Aside from whether or  
21 not you are a patient, which I'm not  
22 asking, do you interact with OB/GYNs  
23 otherwise?

24 A. I think you addressed the --

1           A.       Yes.

2           Q.       And 271 recipients did not  
3       return the questionnaire at all, correct?

4           A.       Correct.

5           Q.       Okay. At least before  
6       September 23rd?

7           A.       Correct.

8           Q.       Okay. And so I think you  
9       had mentioned earlier that you think you  
10      could use the responses from the 306 to  
11      extrapolate to the 271; is that correct?

12          A.       Extrapolate is a funny word.  
13      What did you mean by "extrapolate."

14          Q.       So to tell us anything  
15      meaningful about the population that did  
16      not respond.

17          A.       I do think it would tell us  
18      something meaningful, yes.

19          Q.       What do you think it would  
20      tell us?

21          A.       That there are some women in  
22      that group that also may have experienced  
23      some distress around Dr. -- around  
24      Akoda's fraudulent claims of his

1 identity.

2 Q. But not necessarily all of  
3 them, correct?

4 A. Absolutely not, yeah.

5 Q. And so if I invited, as a  
6 hypothetical, 100 relatives to a family  
7 reunion and only 75 showed up, do you  
8 think I could use the feelings or  
9 experiences of those 75 about whether  
10 they wanted to show up to tell me  
11 anything about the 25 that chose not to  
12 come?

13 MR. CERYES: Objection.  
14 Form and foundation.

15 THE WITNESS: I think you'd  
16 probably do better asking a  
17 polling researcher that question.

18 BY MS. McENROE:

19 Q. And you're not a polling  
20 researcher, correct?

21 A. That's correct. I'm a  
22 psychiatrist.

23 Q. And you didn't conduct IMEs  
24 in this case, correct?



1           A.       Correct.

2           Q.       So I want to make sure I  
3 understand the summary statements we've  
4 talked about a couple times, because in  
5 your report you mention that summary  
6 statements were offered by 131 women,  
7 right?

8           A.       I thought it was a little  
9 bit more, but maybe not.

10          Q.       So it's at page 4, if my  
11 notes are right. So there's a big  
12 paragraph two paragraphs above where it  
13 says "results" on page 4 and about in the  
14 middle it says, summary statements were  
15 offered by 131 women.

16          A.       Ah, okay. I see it, yes.

17          Q.       Is that correct?

18          A.       Yes.

19          Q.       And are those the narratives  
20 you were talking about earlier?

21          A.       Yes.

22          Q.       And so that's where in the  
23 report there was an option to write in a  
24 free text box after a statement colon?

1 A. Correct.

2 Q. And there were not separate  
3 summary statements, right? There weren't  
4 other documents submitted? Those were  
5 the summary statements, the ones that  
6 came in --

7 A. Yes.

8 Q. -- the responses?

9 Okay. The only difference  
10 from what you had had in your pile was  
11 that you compiled those from each of the  
12 individual reports or somebody compiled  
13 those from each of the individual --

14 A. Uh-huh.

15 Q. -- reports?

16 A. Yes.

17 Q. And who did that?

18 A. It was a combination of all  
19 of us.

20 Q. Okay. When you say "all of  
21 us," was it you, Lisa and Stephen?

22 A. Lisa and Stephen. We all  
23 had our versions until we settled on that  
24 one. And then the major feat was getting

1 it to print out.

2 Q. Are you a statistician?

3 A. No.

4 Q. On page 4 it also goes on to  
5 say -- make sure I'm looking at the right  
6 sentence -- right after where it said the  
7 summary statements were offered by 131  
8 women, in order to assess the aggregate  
9 severity and distribution of potential  
10 damages among the entire plaintiffs'  
11 class, the response rate and sample size  
12 would be more than adequate to provide  
13 reasonable confidence intervals for the  
14 percentages of plaintiffs in each of  
15 several categories of damage severity,  
16 but this exceeded the scope of this  
17 report.

18 Did I read that correctly?

19 A. You did.

20 Q. What does that mean?

21 A. That means that had one  
22 wanted to look at statistical  
23 significance of the response rate --

24 Q. Yeah.

1           A.       -- that it would have been  
2       statistically significant; however, this  
3       was not being conducted as a research  
4       study. So it was beyond the scope of  
5       this because we were not yet going to be  
6       looking at the statistical significance.  
7       I was mentioning that the response rate  
8       was excellent, that we're pleased to have  
9       that many women respond because it gave  
10      us a good sense of what the general  
11      experience might have been of all the  
12      women, but that we were not going to be  
13      conducting research yet about this  
14      matter.

15           Q.       So in your professional  
16      experience, is it fair to say that you're  
17      saying that a population made up of  
18      individuals who both approached counsel  
19      and then chose to fill out a survey would  
20      be statistically relevant in some way to  
21      a population also treated by Akoda who  
22      neither approached counsel or decided to  
23      complete the survey?

24           A.       Possibly yes and possibly

1 better than previous pelvic exams  
2 they had experienced. Right? And  
3 10 percent said they were less  
4 painful than other exams.

5 BY MS. McENROE:

6 Q. But again, is this a way of  
7 suggesting to the respondents as they go  
8 through that Dr. Akoda might have been  
9 more rough, insensitive, had longer  
10 exams, sexual talk and/or touch?

11 A. You know, if asking a  
12 question is always perceived as  
13 suggestive, then I would never ask  
14 somebody if they have any suicidal or  
15 homicidal ideation because they may never  
16 give that answer unless I ask that  
17 question. But if asking the question is  
18 sort of the same as the whole debate  
19 about should you talk to kids about --  
20 about their sexuality. Well, when you  
21 speak with a middle school child about  
22 whether they've ever had sex or thought  
23 about sex, is that suggestive to them  
24 that, gee, maybe I should have sex? So,

1     you know, I guess I could be mute and not  
2     ask any questions, but if I want to be  
3     effective as a person trying to gather  
4     information then I'm going to ask the  
5     questions in a way that gives people  
6     permission to explain and to say more.

7             Q.     What about the difference in  
8     length in the response options, do you  
9     have any sense about -- in survey science  
10    about how it influences respondents to  
11    pick a certain response when that's the  
12    longest one?

13            A.     I'm sure you can find  
14    experts to that -- that can speak more to  
15    that.

16            Q.     But you don't?

17            A.     I don't --

18            Q.     That's not something --

19            A.     -- have experts in my  
20    pocket, no.

21            Q.     That's not something you  
22    took into consideration when drafting  
23    these responses?

24            A.     I took into consideration

1 doing the job that I was asked to do, to  
2 understand what these women's experiences  
3 were in the presence of Dr. Akoda, who  
4 may or may not, have been a doctor as  
5 certified by your client.

6 Q. But without using survey  
7 sciences?

8 MR. CERYES: Objection.  
9 Form and foundation.

10 THE WITNESS: I'm sorry, I  
11 think that the morning part of the  
12 session I explained the background  
13 that I had. I'm sure there are  
14 many aspects to survey science and  
15 marketing. That's not really the  
16 domain of my training. My  
17 training was in ethnography,  
18 microethnography, qualitative and  
19 quantitative methodologies.

20 BY MS. McENROE:

21 Q. Okay. And for 3c, you ask  
22 about having a nurse or a chaperone in  
23 the room during pelvic examinations, and  
24 I think this morning you referenced that

1 in the practice typically you would  
2 expect that there would be a chaperone in  
3 the room for all gynecological care on  
4 what basis?

5 A. In recent years that has  
6 been the practice.

7 Q. Okay.

8 A. Now, you may have a  
9 different experience if you have a very  
10 deep and abiding relationship with your  
11 practitioner, but most physicians  
12 providing gynecologic care now will do  
13 that for their own liability and  
14 protection.

15 Q. And on what basis do you say  
16 that?

17 A. On the basis of being a  
18 physician and being at the University of  
19 Pennsylvania communicating with my  
20 colleagues about practice.

21 Q. Who have you talked to about  
22 specifically having chaperones in the  
23 room during pelvic examinations?

24 A. Oh, I have a number of



1           answered.

2                       THE WITNESS: From reading  
3           the newspaper and from common  
4           knowledge that that is a standard  
5           of care among American  
6           obstetrics-gynecologists.

7   BY MS. McENROE:

8           Q.       For question 4, 4a, you had  
9           asked, did you think that Dr. Akoda asked  
10          you to come in for checkups more often  
11          than needed.

12                    Why did you ask that  
13          question?

14           A.       That would suggest that he  
15          was seeking contact with particular  
16          patients for his own gratification rather  
17          than for their medical need.

18           Q.       And you think that -- or  
19          strike that.

20                    You drafted this for a  
21          second or third grade reading level, you  
22          said?

23           A.       Uh-huh.

24           Q.       That's a yes?

1           A.       Yes.    Sorry.

2           Q.       And you're now asking them,  
3   the respondents to make a determination  
4   of whether they think that the requested  
5   checkups were more frequent than would be  
6   medically necessary?

7           A.       Yes.    Uh-huh.

8           Q.       Okay.   For 4c, that's the  
9   question, pelvic exams are never fun, but  
10   looking back do you think his exams were  
11   more or less painful than other pelvic  
12   exams you've had with other doctors.

13                    There's no I don't know or  
14   remember option there.   Why not?

15           A.       Probably were trying to keep  
16   this to be a short survey and all the I  
17   don't knows or remembers or -- add space  
18   and time to read.   But there was a more,  
19   there was a less and there was a -- I  
20   don't know what the no is actually.   Do  
21   you think he was more or less painful --  
22   I don't even know what the no is.   That's  
23   just probably an error.

24           Q.       So maybe that was intended

1 to be I don't know or remember?

2 A. I don't remember actually  
3 and I -- and I don't know. It may have  
4 been at 2:00 in the morning.

5 Q. So you think you prepared  
6 this at 2 o'clock in the morning?

7 A. Very likely.

8 Q. Okay. And what review or  
9 process was there before this went live  
10 in terms of the content?

11 A. I'm sorry, you want to  
12 clarify that question, please.

13 Q. Yeah, the questionnaire --

14 A. Yeah.

15 Q. -- what review or process  
16 was there to verify that the questions  
17 were what you meant to be asking before  
18 it went live?

19 A. I read them through a few  
20 times and Lisa Bain read them through a  
21 few times.

22 Q. Anybody else?

23 A. Probably Mr. Ceryes also or  
24 his associate.

1           Q.       For 4e, did you ever  
2       consider changing doctors, yes, no, I  
3       don't know or remember.

4                    I didn't see the data  
5       reported on that in your report. Do you  
6       remember how that came out?

7           A.       No, there were lots of  
8       things we did not report on. Just not  
9       enough time. But you have the -- the raw  
10      data, so you can calculate that.

11          Q.       Well, I have the raw  
12      reports. I think you said you had it  
13      more in a tabulated data form that  
14      Stephen could get for you as you needed  
15      it.

16          A.       What we asked of him. We  
17      did not ask that of him.

18          Q.       Okay. Why not?

19          A.       Probably a limitation of  
20      time.

21          Q.       So in question 5b the  
22      question is, how did you feel when you  
23      heard about the charges against  
24      Dr. Akoda? Check all that apply. And

1           A.       I meant emotional  
2    distress --

3                   MR. CERYES:  Objection.  
4           Form and foundation.

5                   THE WITNESS -- as a  
6           layperson correlate of not -- not  
7           settling well, not being  
8           comfortable, not being happy, not  
9           being satisfied, not feeling good.  
10   BY MS. MCENROE:

11           Q.       Do you have any  
12    understanding of whether there's a legal  
13    meaning to the term "emotional distress"?

14           A.       There probably is.

15           Q.       Were you intending to use  
16    this in that way?

17           A.       No, I was not.  I'm not  
18    sure.  I'm not a lawyer.

19                   MR. CERYES:  Objection.  
20           Form and foundation.

21                   THE WITNESS:  And that's not  
22    my intention.

23   BY MS. MCENROE:

24           Q.       So you're meaning emotional

1 distress here to mean that in not sort of  
2 a formal term, but in more of a  
3 layperson's type of language --

4 A. Correct.

5 Q. -- is that what you mean?

6 So let's turn real quick --  
7 you still have that on your lap.

8 A. I do. Uh-huh.

9 Q. Let's -- we're going to take  
10 a look at -- I think it was Exhibit 6,  
11 which is the collection of survey  
12 responses.

13 A. Yes.

14 Q. And we put Bates numbers,  
15 like I mentioned, at the bottom.

16 A. Okay.

17 Q. So it might be easiest if I  
18 use those.

19 A. Sure.

20 Q. We're going to flip ahead to  
21 page 185.

22 A. Okay.

23 Q. Let me get there. One  
24 second. Okay. So let's take a look --

1     this is the first of the questionnaires  
2     that we're really going to look at for a  
3     minute. I'm only going to point to a  
4     couple of particular responses because  
5     I'm going to get back the questionnaire  
6     before we come back to some more specific  
7     responses. But I wanted to look -- we  
8     were just talking about 6a and it relates  
9     to 6b. So I want to take a look at this  
10    respondent's responses to 6a and 6b. So  
11    6a is, did you experience emotional  
12    distress as a result of Dr. Akoda's  
13    conduct or as a result of learning that  
14    he might not be a licensed doctor or that  
15    his name and papers were not real. And  
16    this respondent said no. So they didn't  
17    experience emotional distress from that.  
18    And then 6b, do you still experience  
19    emotional distress as a result of  
20    Dr. Akoda's conduct or as a result of  
21    learning that he might not be a licensed  
22    doctor or that his name and papers were  
23    not real, and the respondent said yes.  
24                                   How do you reconcile those

1 two answers?

2 A. Yeah. It's -- it's  
3 interesting. This is a fairly benign  
4 response. This person was pretty pleased  
5 with the care that she received with  
6 Dr. Akoda. She thought the pelvic exams  
7 were fine, less painful. Her daughter  
8 saw him. But she noted that she feels he  
9 betrayed her trust and has led her to  
10 change her practice about how often she  
11 visits an OB/GYN and it has led her not  
12 to trust doctors. She is very clear it  
13 hasn't affected other parts of her life,  
14 although she says it's a -- still has a  
15 pain in her stomach, which may or may not  
16 be related, and that is the sum totality  
17 of what she reports, not particularly --

18 Q. Right.

19 A. -- excessive.

20 Q. So that --

21 A. This is a woman --

22 Q. -- wasn't my question, Dr.

23 Steinberg.

24 So 6a is no and it instructs



1 if you say no to move on to 6c, yet she  
2 answered yes for 6b. So I'm just trying  
3 to understand as a survey design  
4 standpoint, she was able to answer a  
5 question she was supposed to have skipped  
6 and then they give contradictory  
7 responses, and I just wanted to  
8 understand your --

9 A. Right.

10 Q. -- perspective on that from  
11 a survey design perspective?

12 A. My -- my thought is, and as  
13 I'm looking at this right now, is that  
14 this exemplifies the complex nature of  
15 emotions and how a person can have  
16 multiple and contradictory experiences of  
17 the same thing. Here's somebody who was  
18 really okay with Dr. Akoda and yet she  
19 was shocked to find out about this. It  
20 betrayed her trust and it altered her  
21 practice. So overall her distress is  
22 limited to the sort of cognitive  
23 dissonance of this person that she liked,  
24 that she valued, that she trusted and

1 then this information that she couldn't  
2 quite grapple with. So in two questions,  
3 one right next to the other, you see the  
4 contradictory nature of her emotions  
5 about this.

6 Q. But that's a lot to take  
7 from this, knowing this yes. Right? I  
8 mean, she could have either made a  
9 mistake, she could have not understood  
10 the questions or could have just been  
11 that when she hit no and it meant to skip  
12 her along to the next question, the  
13 design of the survey was just not robust  
14 enough to direct her in that way. Right?  
15 She clearly saw 6b after answering 6a.

16 A. Do you have a question for  
17 me?

18 Q. I'm asking you. So isn't  
19 that true? I mean, she saw 6b then  
20 clearly after she saw 6a, correct?

21 A. You asked me what I took  
22 from this.

23 Q. Yeah.

24 A. I'm explaining to you what I

1 took from the contradictory nature of her  
2 responses on those two because I'm not  
3 looking at exclusively at those two  
4 questions. I'm looking at the rest of  
5 the responses that she had and I'm seeing  
6 other information that fills it out a  
7 little built more. Kind of like if  
8 you're coloring a page, there's an  
9 outline and then there's a color. So I  
10 get the color from her responses. She  
11 really did not have terrible experiences  
12 with him. She liked him. She trusted  
13 him. And she sent her daughter to him.  
14 And she thought his pelvics were fine.  
15 There is no sexually inappropriate  
16 conduct that he had that she experienced.  
17 And yet she felt that he betrayed her  
18 trust. Those are her words. That was  
19 not a choice. She didn't check "other"  
20 and leave it blank. She explained what  
21 she felt. She colored in the lines as  
22 she did in 7. So while that may -- in  
23 and of itself, those two questions might  
24 be confusing to you as you look at them.

1 I have a little more information from  
2 looking at her response to 7a and 7b and  
3 5c. That explains, yeah, she -- she was  
4 really not -- she didn't really  
5 experience emotional distress, but  
6 then -- then she learned that that this  
7 stuff was in the news and she heard about  
8 it. And so still, it has -- there's that  
9 "still" word. Do you still experience.  
10 And when she saw the "still," is like  
11 yes, I don't go to doctors as often, I  
12 don't go to OB/GYNs as often. The  
13 difference between those two questions is  
14 one of immediate. When you heard about  
15 it, did you have emotional distress?  
16 Were you -- were you -- she might have  
17 read emotional distress as like trauma.  
18 Did you experience trauma. This woman is  
19 not really decrying trauma. What she's  
20 explaining is that it's affected me  
21 still. I -- I don't use practice --  
22 practitioners in the same way that I did  
23 before. Those are her words. I'm not  
24 putting words into her mouth in this.

1 And you asked me what I take from those  
2 two questions and that is my answer.

3 Q. So with 6a, when you said no  
4 and then in italics, if you answered no to  
5 question 6a, skip to question 6c, you  
6 didn't really mean it. You thought they  
7 might have cognitive dissonance and  
8 answer 6b.

9 A. No, I thought that she would  
10 skip it, but she didn't.

11 Q. Okay. So it wasn't set up  
12 to skip it for her?

13 A. Apparently not.

14 Q. Okay.

15 A. That particular one was not.  
16 Sometimes we did, sometimes we just  
17 overlooked it. But it is interesting how  
18 she responded.

19 Q. So question 6h.

20 A. Yes.

21 Q. And after that then 6i  
22 through 6s.

23 A. Yes.

24 Q. We don't need to go through

1 each of them in detail, but starting with  
2 6i, these are not questions tied to  
3 experiences with Dr. Akoda in particular,  
4 as written on their face. Right? So,  
5 for example, 6i, have you experienced  
6 mood changes or depression? Then, yes,  
7 only in the past month; yes, only prior  
8 to the past month; yes, both in the past  
9 month and prior to the past month; and  
10 no.

11 Do you see that?

12 A. Yes. Uh-huh.

13 Q. And then the rest of those  
14 until 6s are the same, right? They're  
15 asking all sorts of questions.

16 A. Uh-huh.

17 Q. But they're not tied  
18 specifically to experiences with  
19 Dr. Akoda?

20 A. They're asking if they've  
21 had these experiences, correct.

22 Q. Right. So it's true that  
23 the responses there on those, this could  
24 have all different other sorts of causes.